S.B.CIVIL WRIT PETITION NO. 6698/2003
Om Prakash Vs. State of Raj. & Ors.

DATE OF ORDER :: 01st June, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. D.C. Sharma, for the petitioner.
Mr. Shyam Ladrecha, Addl. Govt. Advocate.

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The petitioner entered in Rajasthan Police Subordinate Service being appointed as Constable in Civil Police. Despite appointment to Civil Police the services of the petitioner were utilized by the respondents as Driver that is under "Mechanical Transport" wing of Rajasthan Police.

The Director General of Police, Government of Rajasthan, Jaipur under standing order No.9/90 dated 15.11.1990 declared "Mechanical Transport" wing as a part of Technical/Specialized Cadre of Rajasthan Police. The service of the petitioner, by an order dated 26.7.2001, was absorbed in Motor Transport (Technical) Cadre w.e.f. the date of his initial appointment i.e. 19.9.1991. The respondents also allowed selection grade to the petitioner in accordance with the notification dated 25.1.1992 by treating the petitioner a member of Motor Transport (Technical) Cadre. After fixation of the petitioner in the selection grade, that is of Rs.5500-9000, an order dated 27.12.2002 was passed by the Dy. Inspector General of Police (Hqrs.), Rajasthan, Jaipur prescribing that the members of Civil Police to whom MT Allowance was sanctioned shall not be entitled for getting selection grade under MT Cadre posts and the persons who were drawing allowances for working in MT prior to application of Rajasthan Police Subordinate Service Rules,

1989 shall continue to draw selection grades relating to the posts in MT Cadre. A classification was made by the respondents among the persons working in MT Cadre by de-marketing their service from the date of application of Rajasthan Police Subordinate Service Rules, 1989 i.e. 15.8.1989. The respondents in pursuant to the order dated 27.12.2002 passed an order dated 30.10.2003 withdrawing the selection grades granted earlier and also ordered for effecting recovery from the petitioner against the amount said to be paid in excess. By the order dated 30.10.2003 the selection grade of Rs.4000-6000 was allowed to the petitioner in place of the pay scale of Rs.5500-9000. Being aggrieved by the order aforesaid this petition for writ is preferred. The petitioner has given challenge to the classification made under the order dated 27.12.2002 among the employees working in MT Cadre on basis of the date of application of the Rajasthan Police Subordinate Service Rules, 1989, being irrational and discriminatory.

In reply, stand of the respondents is that the classification made under the order dated 27.12.2002 is rational and having nexus with the object sought to be achieved. According to the respondents the Constables who were employed in Civil Police and working in Motor Transport Wing on deputation, with deputation allowance, are not entitled for selection grades in MT Cadre. According to the respondents those constables who were in MT Service prior to application of Rajasthan Police Subordinate Service Rules, 1989 are entitled to continue in that Cadre and also declared them entitled for getting selection grades but not the persons who were employed in Civil Police and are working in MT Wing on deputation.

Heard counsel for the parties.

From perusal of the order dated 27.12.2002 it is apparent that the members of Civil Police to whom MT Allowance was sanctioned after application of Rajasthan Police Subordinate Service Rules, 1989 shall not be entitled for selection grades in MT Cadre. The respondents by the order dated 30.10.2003 withdrew the selection grades granted to the petitioner by treating him a person employed in Civil Police Wing. While doing so the respondents have not taken into consideration the order dated 26.7.2001 whereby the petitioner was absorbed in MT (Technical) Cadre from the date of his initial appointment. After absorption in MT (Technical) Cadre the petitioner cannot be treated as person belonging to Civil Police Wing. In view of it, the respondents wrongly applied the order dated 27.12.2002 upon the petitioner. The order dated 30.10.2003, therefore, is erroneous.

Accordingly, this petition for writ is allowed. The order dated 30.10.2003 is quashed and the petitioner is declared entitled to continue in the selection grade i.e. of Rs.5500-9000. No order as to cost.

(GOVIND MATHUR),J.

jgoyal